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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/322,259	05/28/1999	JOHN TERRANCE REAGAN	VLSI-3410	7735

7590

08/09/2002

CORPORATE PATENT COUNSEL
PHILLIPS ELECTRONICS NORTH AMERICA CORPORATION
580 WHITE PLAINS ROAD
TARRYTOWN, NY 10591

EXAMINER

OPSASNICK, MICHAEL N

ART UNIT

PAPER NUMBER

2654

DATE MAILED: 08/09/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/322,259

Applicant(s)

REAGAN

Examiner

Michael N. Opsasnick

Art Unit

2654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

1. Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Tzeng (5293449).

As per claims 1,5,9, and 13, Tzeng (5293449) teaches a vocoder (abstract, line 1-12):

“receiving.....by said vocoder” as calculating means square error to determine if threshold has been met (col. 8 lines 55-61)

“provided an input signal.....continuously generated” as measuring the amount of energy of the signal, and choosing either a voice codebook or unvoiced codebook (col. 8 lines 11-48)

As per claims 2,6,10, and 14, Tzeng (5293449) teaches:

“receiving said determined input energy.....4q2” as energy distortion threshold (col. 9 lines 25-31)

As per claims 3,7,11, and 15, Tzeng (5293449) teaches:

“calculating.....for said input signal” as summation of squares (col. 9 lines 25-34)

“provided said sum of squares value.....continuously generated’ as using the error equation to determine the use of random codebook excitation (col. 9 lines 44-60)

As per claims 4,8,12, and 16, Tzeng (5293449) teaches:

“calculating a sum.....input signal” as summation of squares (col. 9 lines 25-34)

“provided said sum of squares value.....codebook excitation vector” as using non-random excitation vector when error function dictates (col. 9 lines 44-57, col. 8 lines 41-57).

Response to Arguments

3. Applicant's arguments filed 2/25/02 have been fully considered but they are not persuasive. As per independent claim 1,5,9,13, applicants argue that Tzeng does not teach the present invention, a vocoder; but teaches a speech synthesizer. Examiner argues that the claim language of the instant invention pertains to a computer method/system receiving information and selecting an excitation vector according to an energy threshold, not so much as the vocoder or the compression/decompression technique argued by the applicant. Examiner further argues that the error minimization of Tzeng teaches a comparison to a threshold – the threshold being minimal error. With respect to the applicant's arguments that Tzeng does not teach “using a selection process to prevent said suspected noise-inducing.....generated”, examiner argues that the scope of the parents claim language is equivalent to “using a selection process” (of which Tzeng teaches). The remaining claim language “to prevent said suspected noise-inducing

Art Unit: 2654

codebook.....generated” pertains to a result of the selection process, not the actual process itself and is therefore non-functional descriptive language.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 2654

5. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872 9314,

(for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington. VA., Sixth Floor (Receptionist).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Opsasnick, telephone number (703)305-4089, who is available Tuesday-Thursday, 9AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Marsha Banks-Harold, can be reached at (703)305-4379. The facsimile phone number for this group is (703)872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group 2600 receptionist whose telephone number is (703) 305-4750, the 2600 Customer Service telephone number is (703) 306-0377.

mno

8/6/02

Vijay Chawan 8/8/02
VIJAY CHAWAN
PRIMARY EXAMINER